

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR PUBLIC UTILITIES COMMISSION

In the Matter of the Application of Black  
Oak Wind, LLC and Getty Wind Company,  
LLC for a Certificate of Need for an up to  
82 MW Large Energy Facility in Stearns  
County, Minnesota

**SUMMARY OF PUBLIC TESTIMONY**

This proceeding began on May 24, 2011, when the applicants, Black Oak Wind, LLC, ("Black Oak") and Getty Wind Company ("Getty") (collectively "Applicants") filed a joint request with the Minnesota Public Utilities Commission ("Commission") for a determination of whether a Certificate of Need ("CON") was required for two large wind energy conversion systems in Stearns County, Minnesota. On October 11, 2011, the Applicant filed a joint application for a CON for the Black Oak Wind Farm and the Getty Wind Farm (collectively "Projects"). The Applicants sought to have their application processed under the alternative permitting processes of Minn. R. 7850.2800 to 7850.3900. On December 15, 2011, the Commission issued an order authorizing that informal review process for its consideration of the Projects.

On June 26, 2012, Administrative Law Judge Bruce H. Johnson ("ALJ") conducted a public hearing on the Projects, beginning at 6:00 p.m. at the Sauk Centre City Hall, 320 Oak Street South, in Sauk Centre, Minnesota. Approximately eleven members of the public attended the public hearing. The ALJ provided them with an opportunity to present their views about issuing a CON for the Project. The period for written comment, as well as the OAH public hearing record, closed on Tuesday, July 10, 2012.

**Description of the Project**

Black Oak is Minnesota limited liability company and a wholly-owned subsidiary of Geronimo Wind Energy, LLC ("GWE"), which owns two operating wind farms in Minnesota and has a number of active development projects throughout the Midwest. Black Oak is proposing to build up to a 42 MW large wind energy conversion system near Sauk Centre in Ashley and Raymond Townships in Stearns County ("Black Oak Project"). The Black Oak Project will consist of 28 or fewer wind energy generators and associated facilities, including gravel access roads, a step-up substation, a wind electrical collection system, an operation and maintenance ("O&M") building, permanent

meteorological towers, and a Sonic Detection and Ranging ("SODAR") unit or Light Detection and Ranging ("LIDAR") unit. The project area will encompass approximately 7,000 acres. Black Oak began developing the Black Oak Project in 2008. It has obtained easements for site control and has filed an interconnection request with the Midwest Independent System Operator ("MISO"). Black Oak filed a site permit application with the Commission on December 6, 2010, and the Commission issued a draft site permit in March 11, 2011.

Getty is a Minnesota limited liability company and a wholly-owned subsidiary of Getty Wind, LLC. It was formed by eighteen Minnesota residents for the purpose of developing an approximately 40 MW large wind energy conversion system also located in Stearns County ("Getty Project"). The Getty Project will be located approximately six miles south of Sauk Centre in Getty, Grove, and Sauk Centre Townships. On June 8, 2010, the Getty Project received a Resolution of Support from the Stearns County Board of Commissioners, and Getty plans to seek qualification of its project as a Community-Based Development ("C-BED") project pursuant to Minn. Stat. § 216B.1612.<sup>1</sup>

The Getty Project will consist of 27 or fewer wind energy generators, a collection system, a substation, a transmission line, up to two permanent meteorological towers, an O&M facility, and associated roads. The project area will encompass approximately 7,600 acres. Getty has also begun to obtain easements for site control and has begun the process of filing an interconnection request with MISO. Getty also filed a site permit application with the Commission on October 11, 2011, and the Commission issued a draft site permit on February 23, 2011.

## **PROCEDURAL HISTORY**

1. On May 24, 2011, the Applicants filed a joint request for a determination of whether a CON was required for two large wind energy conversion systems in Stearns County, Minnesota.<sup>2</sup> They filed that request because they had executed an agreement under which the Black Oak and Getty Projects may come under common ownership at a later date. If that occurs, the Applicants believe that their projects may fall within the definition of a "large energy facility" under Minn. Stat. § 216B.2421, subd. 2(1) and therefore require a CON for one or both sites.<sup>3</sup>

2. On October 11, 2011, the Applicant filed a joint application for a CON for the Projects.<sup>4</sup>

3. On December 15, 2011, the Commission accepted the Applicants' CON application as being substantially complete and authorized the Department of Commerce ("Department") to process the application under the alternative review

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<sup>1</sup> Unless otherwise specified, all references to Minnesota Statutes are to the 2012 edition.

<sup>2</sup> Exhibit ("Ex.") 10.

<sup>3</sup> Ex. 15 at ¶ 2.3.

<sup>4</sup> Ex. 15.

process set forth in Minn. R. 7850.2800 to 7850.3900.<sup>5</sup> The Commission's Order also accepted the Department's recommendation that the Office of Administrative Hearings conduct at least one public hearing on the Projects and that the presiding ALJ prepare a summary report of the hearing.<sup>6</sup>

4. On February 28, 2012, the Commissioner of Commerce issued an Environmental Report and a scoping decision in connection with the Projects.<sup>7</sup>

### **HEARING NOTICE AND PUBLIC COMMENT PROCESS**

5. On May 11, 2012, the Commission issued a Notice of Public Hearing giving advance notice of the public hearing to persons on the service list. The public hearing was scheduled for 6:00 p.m. on May 29, 2012, at the Sauk Centre City Hall, 320 Oak Street South, in Sauk Centre, Minnesota.<sup>8</sup>

6. On May 25, 2012, the Commission issued a Revised Notice of Public Hearing, rescheduling the public hearing for 6:00 p.m. on June 26, 2012, at the Sauk Centre City Hall, 320 Oak Street South, in Sauk Centre, Minnesota.<sup>9</sup>

7. On May 31, 2012, the Revised Notice of Public Hearing was published in the Sauk Center Herald, a local newspaper.<sup>10</sup>

8. On June 26, 2012, the ALJ conducted a public hearing on the Projects, beginning at 6:00 p.m. at the Sauk Centre City Hall, 320 Oak Street South, in Sauk Centre, Minnesota. Approximately eleven members of the public attended that public hearing. After the hearing was completed, the record remained open for written comments by interested persons until the close of business on July 10, 2012. The ALJ received seven written comments by the deadline.

9. The Commission will issue an order on the Applicants' applications for a CON after examining this Summary, the hearing transcripts, all written filings submitted by the public and all filings and argument submitted by the Applicants, the Department, and other persons and entities interested in this matter.

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<sup>5</sup> Ex. 19.

<sup>6</sup> *Id.*

<sup>7</sup> Ex. 6.

<sup>8</sup> (<https://www.edockets.state.mn.us/EFiling/edockets/searchDocuments.do?DocNumber=20125-74638-02>).

<sup>9</sup> Ex. 23.

<sup>10</sup> Ex. 24.

## **SUMMARY OF PRESENTATIONS**

Suzanne Steinhauer, State Permit Manager with the Department's Energy Facility Permitting Unit ("EFP"), provided information at the public hearing about the Department's responsibility for conducting and processing CON applications and about the steps that had already been completed.

Tricia DeBleecker, a member of the Commission staff, explained the Commission's role in considering the Applicants' joint CON application. Ms. DeBleecker also explained how members of the public could gain web access to all documents filed in connection with this docket.

Patrick Smith, Director of Environmental Planning for Getty, provided background about the Projects, both in prefiled direct testimony and in an oral presentation at the hearing. Mr. Smith offered information about how Getty was responding to concerns raised by the Minnesota Department of Natural Resources ("DNR") by evaluating and revising turbine layout to reduce predicted avian risk. He also provided information on revised noise and shadow flicker analyses that were performed for the revised turbine layouts. Mr. Smith further stated that the Applicants had been developing a revised Avian and Bat Protection Plan ("ABPP") to bring it into conformity with the U. S. Fish and Wildlife Service's recently updated guidelines. Additionally, Mr. Smith offered some clarifications of, and corrections to, the Department's Environmental Report. Finally, Mr. Smith provided information on the Applicant's current schedule for completing the Projects. He stated that the Projects were being developed on a parallel schedule, and that the Applicants expected to begin construction in June 2013, and that their target for a commercial operation date was the end of 2013.

## **SUMMARY OF PUBLIC COMMENT**

Kevin Lahr lives in the area where the Getty Project will be built. He is a member of the Getty Wind Company. Mr. Lahr wished to emphasize that the Projects have the support of a majority of landowners in the area. He noted that there have been some concerns that the Projects will be taking valuable farmland out of production. However, Mr. Lahr stated that the Getty Project will only be taking between 18 and 34 acres of farmland out of production, while there are approximately 466,531 acres of harvested farmland in Stearns County. The Project will therefore only be taking about .0075 percent of the County's farmland out of production, and that the relatively small resultant revenue loss will be more than offset by revenue generated for landowners by the Project.

Leo Klisch lives in Stearns County and also has a personal interest in and supports the Projects. He believes that the Stearns County Electric Association sold approximately 500 million kilowatt-hours of electricity last year, and he believes that the Projects have the potential to produce one-third to one-half of that total. He further believes that the Projects will have a very favorable impact on the local economy and that, in time, the economic impact of producing electrical energy locally may become as important as the impact of agriculture on the local economy. Further, he emphasized

the positive effects that producing clean wind energy will have on the environment. Finally, Mr. Klisch submitted some articles about the benefits of clean energy for inclusion in the public hearing record.<sup>11</sup>

## **WRITTEN COMMENTS**

Seven written comments were received before the public hearing record closed on July 10, 2012:

Colleen Mueller requested that a comprehensive environmental and ecological study be conducted of the effects of constructing the Projects; that certain specific environmental studies be conducted in the future; and that the result of those studies be published in local newspapers. She further requested that the Commission impose a moratorium on future wind energy projects while specific kinds of scientific studies were being completed. Finally, Ms. Mueller posed several questions about the Projects that she would like to have answered.

David Wiener expressed concern about the way in which the Applicants were obtaining signatures from property owners for the easements required for the Projects. He also submitted a copy of correspondence that he had sent to the Commission on February 3, 2012, concerning what he believes will be adverse environmental impact of the Projects. Mr. Wiener requested that the applications for CON and Site Permits be denied because of the adverse effects that the Projects have on birds in local flyways.

On July 10, 2012, the EFP submitted to the ALJ a copy of a staff comment letter that it had sent to the Applicants on June 25, 2012, requesting them to provide additional and updated information about the Projects in order to create a more robust and accurate record for the Commission.

It is the view of Janell and Scott Westerman that the Commission should not authorize construction of the Projects because of their adverse impact on wildlife and endangered species. They also believe that the Projects will take rich agricultural land out of production. They were further concerned that the presence of the wind generators in the area will devalue their property. Finally, they stated that solar power is more deserving of government subsidies for renewable energy.

Keith Thorstad believes that these Projects have been the first to provide at an early stage a very high level of data about the potential impact of wind farms on birds and other wildlife. He believes that the data has been very useful in minimizing the Projects' impacts on birds and other wildlife.

It is Barb Jennissen's belief that construction of the Projects will result in a decrease in the value of her property. She is concerned that there appears to be no provision for compensating her for that loss. She also believes that other sources of renewable energy, such as hydroelectric power, should be given more consideration to meet the needs that these Projects propose to meet.

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<sup>11</sup> Ex. 26.

Finally, by letter dated June 28, 2012, the EFP submitted directly to the Commission, as supplemental comments, the request for additional information that the EFP had previously sent to the Applicants.<sup>12</sup> By letter dated July 10, 2012, the Applicants' responded to the EFP's request for additional information by filing written comments with the ALJ.<sup>13</sup> That response included a revised ABPP which had been updated to reflect the March 2012 version of the U. S. Fish and Wildlife Service's *Land-Base Wind Energy Guidelines*.

No other written comments were received for inclusion in the public hearing record.<sup>14</sup>

Dated: August 8, 2012

s/Bruce H. Johnson  
BRUCE H. JOHNSON  
Administrative Law Judge

Reported: Janet Shaddix Eiling, R.P.R.  
Shaddix & Associates  
Two Volumes

### NOTICE

This report contains a summary of public testimony. It is not a final decision. The Commission will make the final determination of this matter as set forth in Minn. R. 7850.3900.

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<sup>12</sup> Those Supplemental Comments were submitted to the Commission's Executive Secretary. They were not submitted to the ALJ for inclusion in the public hearing record, and that letter request has therefore not been included in the public hearing record.

<sup>13</sup> That letter response was addressed to the ALJ as a post-hearing comment and has been included in the public hearing record.

<sup>14</sup> Additionally, after the public hearing was held, Barbara Stussy, Bob Rosenquist, and Kristi Rosenquist e-filed written comments directly with the Commission. None of those written comments were addressed or submitted to the ALJ, and they also have not been included in the public hearing record.



## MINNESOTA OFFICE OF ADMINISTRATIVE HEARINGS

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August 8, 2012

Deborah R. Pile  
Supervisor, Energy Facility Permitting  
Minnesota Office of Energy Security  
Suite 500  
85 Seventh Place E  
St. Paul, MN 55101-2198

**Re: *In the Matter of the Application of Black Oak Wind, LLC and Getty Wind Company, LLC for a Certificate of Need for an up to 82 MW Large Energy Facility in Stearns County, Minnesota***

**OAH 40-2500-22816-2  
PUC Docket Nos. IP-6853/CN-11-471, WS-11-831, WS-10-1240**

Dear Ms. Pile:

Enclosed herewith and served upon you by mail is the Administrative Law Judge's **Summary of Public Testimony** in the above-entitled matter. Also enclosed is the official record. Our file in this matter is now closed.

Sincerely,

s/Bruce H. Johnson

BRUCE H. JOHNSON  
Administrative Law Judge

Telephone: (218) 302-6360

BHJ:dc  
Enclosure

STATE OF MINNESOTA  
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ADMINISTRATIVE LAW SECTION  
600 NORTH ROBERT STREET  
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**CERTIFICATE OF SERVICE**

|   |   |
|---|---|
| In the Matter of the Application of Black Oak Wind, LLC and Getty Wind Company, LLC for a Certificate of Need for an up to 82 MW Large Energy Facility in Stearns County, Minnesota | OAH 40-2500-22816-2<br>PUC Docket Nos. IP-6853/CN-11-471, WS-11-831, WS-10-1240 |
|---|---|

Denise Collins, certifies that on the 8<sup>th</sup> day of August, 2012, she served a true and correct copy of the attached the **SUMMARY OF PUBLIC TESTIMONY** by eService, and U.S. Mail, (in the manner indicated below) to the following individuals:

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| Smith     | Patrick    | patrick@geronimowind.com      | Geronimo Wind Energy, LLC              | Electronic Service | No                |

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| Smith     | Patrick    | patrick@geronimowind.com      | Geronimo Wind Energy, LLC              | Electronic Service | No                |

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| Thorstad     | Keith      | West Stevens Wind, LLC   | PO Box 321, Chokio, MN-56221                               | Paper Service   | No                |

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| Smith      | Patrick    | patrick@geronimowind.com       | Geronimo Wind Energy, LLC          | Electronic Service | No                |

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